REMARKS

This Amendment is submitted with filing of the above identified application.

With the present Amendment applicant has amended claims 3 and 4 and submitted two new independent claims 5 and 6.

It is respectfully submitted that the new features of the present invention which are now defined in the claims are not disclosed in the references and can not be derived from them as a matter of obviousness.

The original claims were rejected as anticipated by the patent to Saperston. This reference however does not teach the new features of the present invention as defined in independent claims 3, 5 and 6.

It is known that in order to support an anticipation rejection, it is necessary that each and every element of the claim be disclosed in the reference, and specifically defined in Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 221 USPQ 481, 485 (Fed. Cir. 1984) in which it is stated:

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim."

Definitely, the features of the present invention defined in independent claims 3, 5, 6 are not disclosed in the patent to Saperston with all the features and in the same order.

The patent to Monroe was applied in combination with the patent to Saperston in the rejection under 35 U.S.C. 103(a). None of these two references teaches the present invention as defined in claims 3, 5 and 6. In order to arrive at the applicant's invention from the references, the references have to be fundamentally modified. In particular, the new features of the present invention proposed by the applicant must be deliberately included in them.

However, it is known that in order to arrive at a claimed invention, by modifying the references the cited art must itself contain a suggestion for such a modification.

This principle has been consistently upheld by the U.S. Court of Customs and Patent Appeals which, for example, held in its decision in re Randol and Redford (165 USPQ 586) that

> Prior patents are references only for what they clearly disclose or suggestion; it is not a proper use of a patent as a reference to modify its structure to one which prior art references do not suggest.

Definitely, the references do not contain any hint or suggestion for such modifications.

The Examiner's attention is respectfully directed to the features of claims 5 and 6. These claims are again more detailed and define the new features of the present invention with their specific nature, interconnection and interjunction. The new features of the present invention as defined in claims 5 and 6 are not disclosed in the references applied against the original claims and can not be derived from them as a matter of obviousness.

It is therefore respectfully submitted that claims 5 and 6 should be considered as patentably distinguishing over the art and should be allowed.

Reconsideration and allowance of the present application is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in

formal respects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by Examiner's Amendment, and the case be passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned (at 631-243-3818).

Respectfully submitted,

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